

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

Issuance Date: **December 27, 2007**

LRH-2006-2129-OHR

Stream:

Closing Date: **January 26, 2008**

UN Trib to Raccoon Creek

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Mr. Herbert Smith
463 1st Ave
Gallipolis, Ohio 45631

LOCATION: The proposed project is located on the west side of State Route 325 just south of Rio Grande, Gallia County, Ohio.

DESCRIPTION OF PROPOSED WORK: The majority of the applicant's project impacting waters of the United States was completed without the required authorization from this office. The applicant has placed fill material into approximately 890 linear feet (lf) of an unnamed, intermittent tributary of Raccoon Creek and 110 lf of an additional unnamed, intermittent tributary of Raccoon Creek for the construction of a residential subdivision to be known as The Valley Estates at Rio Grande. Specifically, these two streams have been relocated into two diversion ditches on the property to facilitate construction of the individual lots and internal roads. The applicant has not proposed any additional impacts to waters of the U.S. in association with this project.

As required by the rules and regulations governing the Department of the Army permit program, our office has determined, since the complete work does not present an immediate threat to life or property, an after-the-fact application would be accepted and processed. All investigations and legal proceedings regarding this unauthorized activity will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

In total, approximately 1,000 lf of intermittent stream would be permanently impacted by the proposed project.

Plans of the proposal are attached to this notice.

MITIGATION PLAN: The applicant has not proposed mitigation for the impacts at the time of this Notice. The Corps will make a determination of appropriate mitigation upon review of all submitted information.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined the proposed project would have no effect on any property listed on the Register. Most of the site has already been disturbed due to construction activities. This office has preliminarily determined the proposed project would have no effect on any properties eligible for inclusion on the National Register. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the following candidate, threatened, or endangered species:

Indiana bat (E)
pink mucket pearly mussel (E)
sheepnose mussel (candidate species)

The Huntington District has determined that the project would have no effect on the Indiana bat as the project would not involve the removal of any additional trees, and the area did not appear to have any trees suitable for this species prior to the applicant's unauthorized work. The proposed project would also have no effect on the pink mucket pearly mussel or the sheepsnose mussel as the impacted streams would not support these species and proper implementation of stormwater management principles would ensure indirect impacts due to sedimentation off-site would be avoided. This public notice serves as a request to the USFWS for any additional information they may have on whether any federally listed or proposed species may be present in the area which would be affected by the activity. This information will be used to assist the Huntington District in making final effect-determinations pursuant to Section 7(a)(2) of the Federal Endangered Species Act of 1973 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

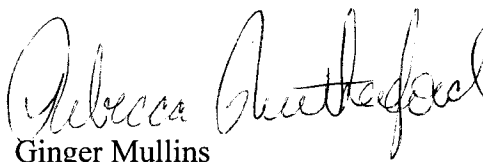
SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this

proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

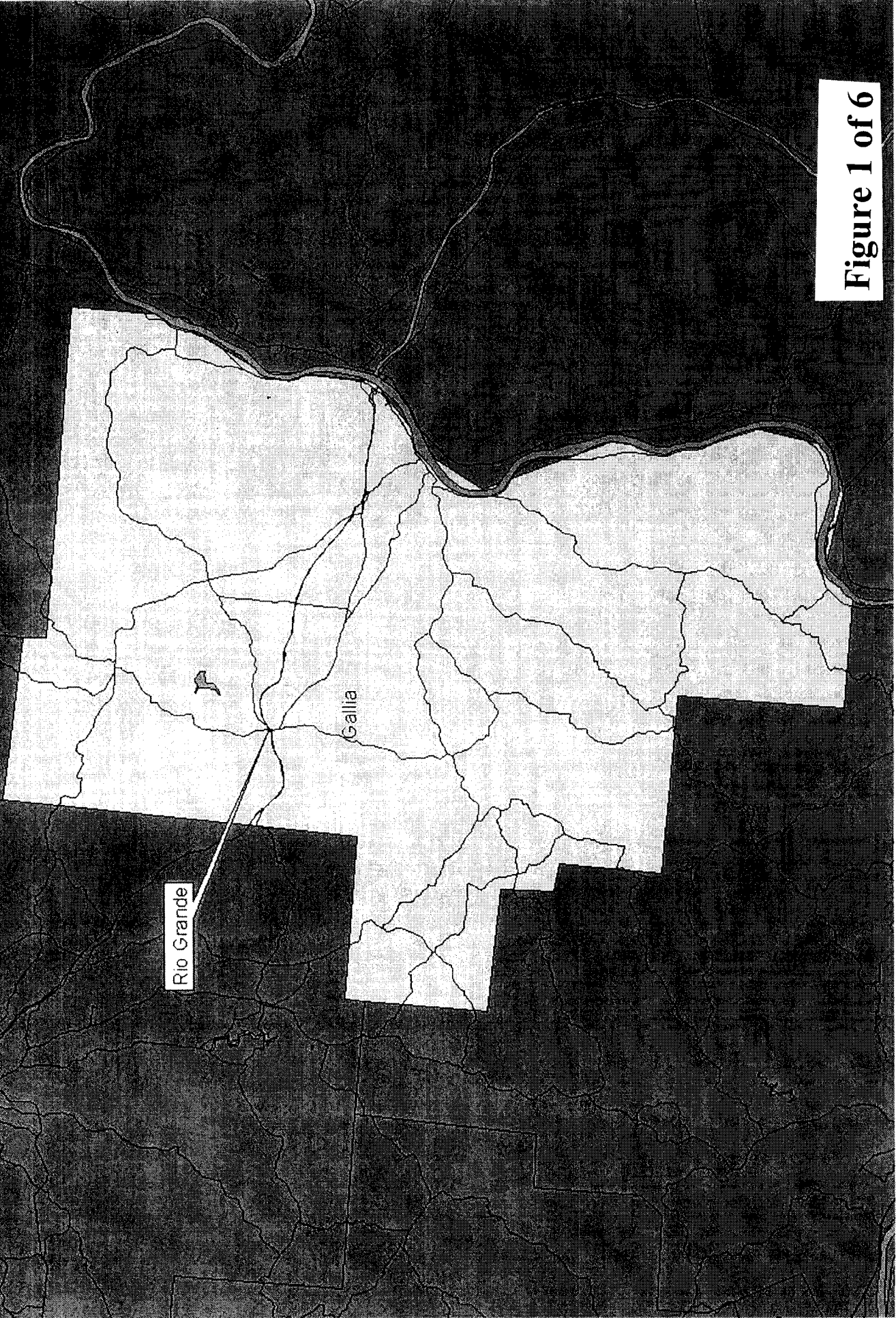
Mr. Jim Spence
North Regulatory Section, CELRH-OR FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Jim Spence of the North Regulatory Section at 304-399-5210.


Ginger Mullins
Chief, Regulatory Branch

(O)

Figure 1 of 6



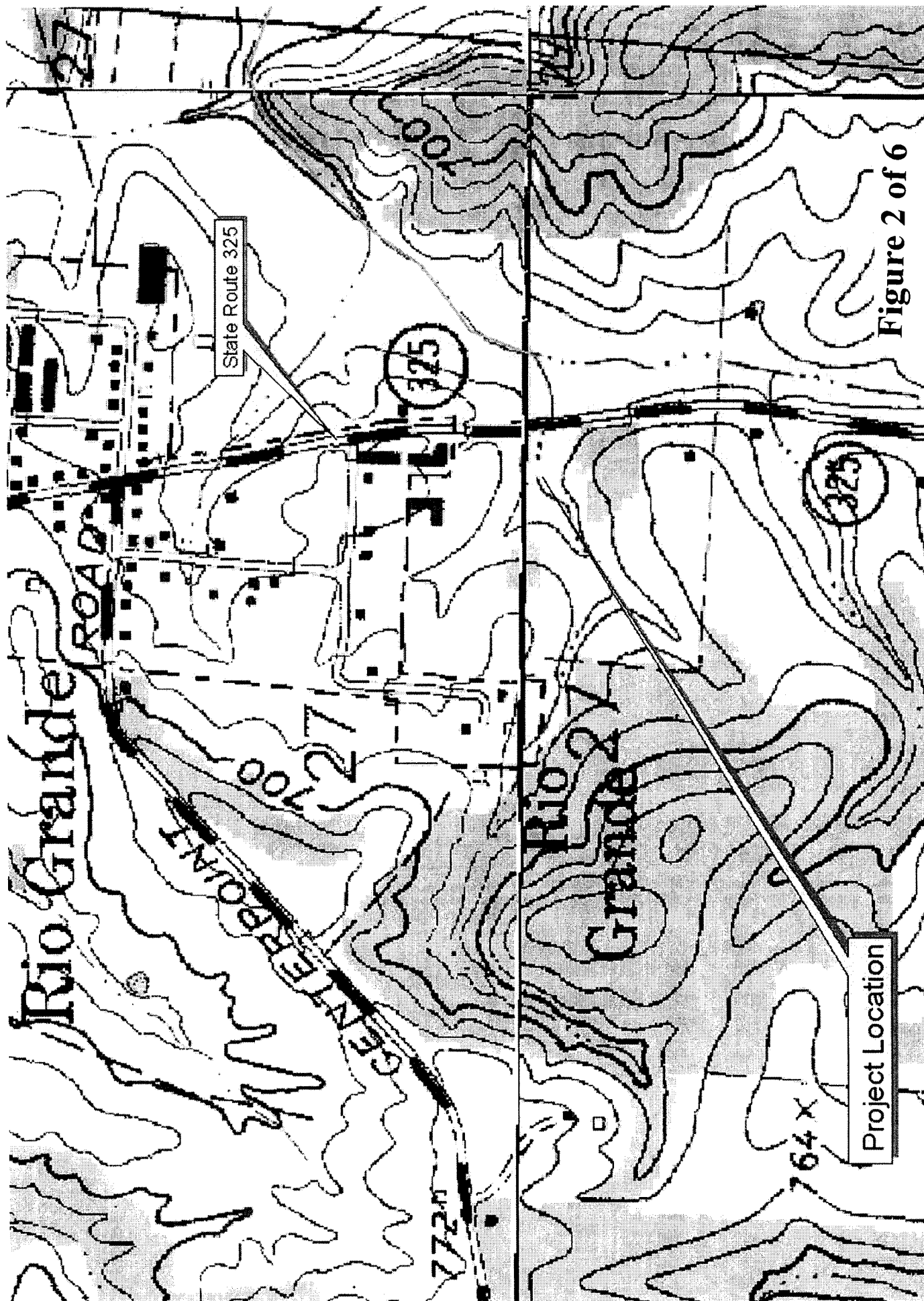


Figure 2 of 6

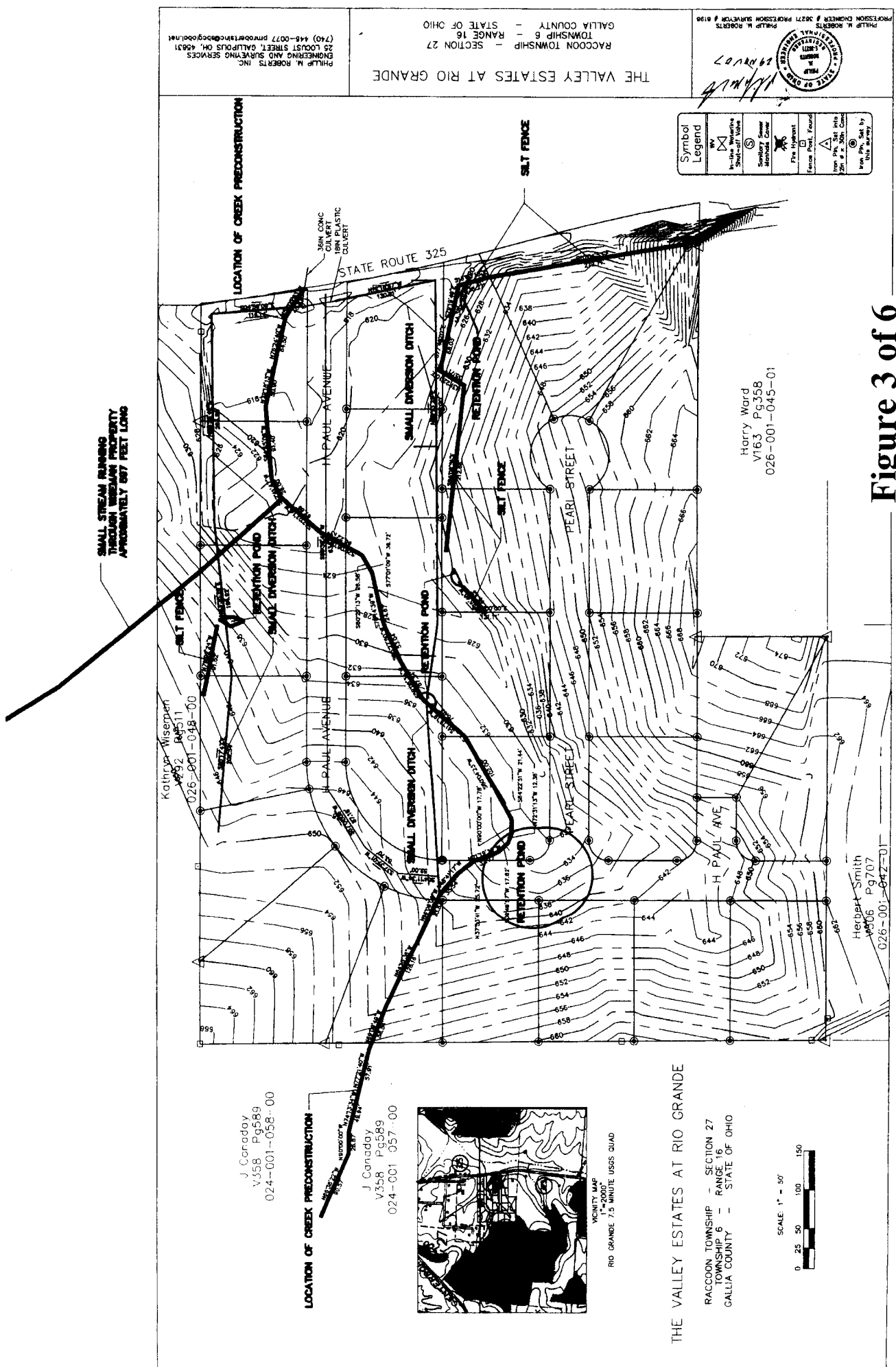


Figure 3 of 6

Engineering & Surveying Services
PHILIP M ROBERTS INC
 11277 Belden Valley Road
 Dayton, Ohio 45424
 760-441-1815

Engineering & Surveying Services
PHILIP M ROBERTS INC
 26 LOCUST STREET • GAITHERSBURG, MD 20878
 (703) 444-0077 VOICEMAIL 444-0077
 E-MAIL Address: phrob@phrob.com

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CURVE	LENGTH	TANGENT	CHORD BEARING	DELTA ANGLE	BACKS
C1	150.00	50.00	S89°12'45"E	37°52'45"	244.48
C2	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C3	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C4	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C5	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C6	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C7	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C8	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C9	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C10	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C11	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C12	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C13	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C14	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C15	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C16	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C17	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C18	150.00	50.00	S10°12'45"E	10°00'00"	244.48
C19	150.00	50.00	S10°12'45"E	10°00'00"	244.48

LINE	LENGTH	BEARING
L1	11.11	N89°12'45"E
L2	11.11	S89°12'45"E
L3	11.11	S10°12'45"E
L4	11.11	N10°12'45"E

SUBDIVISION DEVELOPER
 Herb Smith
 463 First Avenue
 Gallipolis, Ohio 45631
 740-645-5786 Cell Phone

Utility Easements & Setbacks
 Right of Way Legend
 RW - H Paul Avenue 60'
 Additional Front Setback - 35'
 RW - Pearl Street 50'
 Additional Front Setback - 30'
 RW - State Route 325 - 60'
 Setback & RW Line - 30'

Side Yard & Rear Setback and Utility Easement - 15' from Property Line (30' overall width)

All Front, Rear & Side Yard Setbacks are hereby additionally designated as also being available for Utility Easements.

SUBDIVISION DEED OF REFERENCE
 Herbert Smith
 V304 Pg593
 026-001-047-00

H Paul Avenue Pearl Street
 70,868.88 sq. ft. 31,696.83 sq. ft.
 1.63 acres 0.73 acres
 Total Subdivision Acreage
 722,835.35 sq. ft.
 16.59 acres

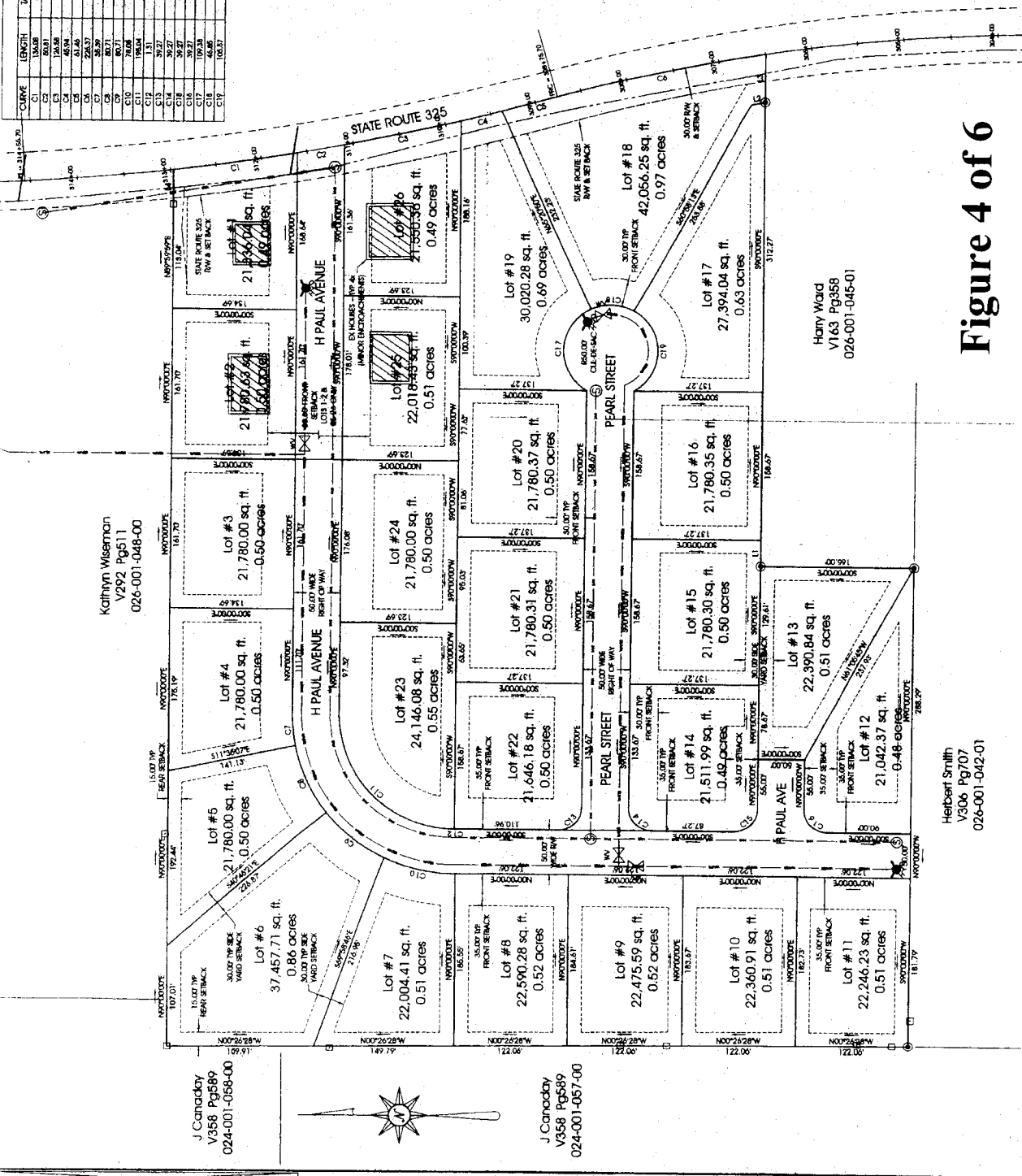


Figure 4 of 6

Kathryn Wiseman
 V292 Pg511
 026-001-046-00

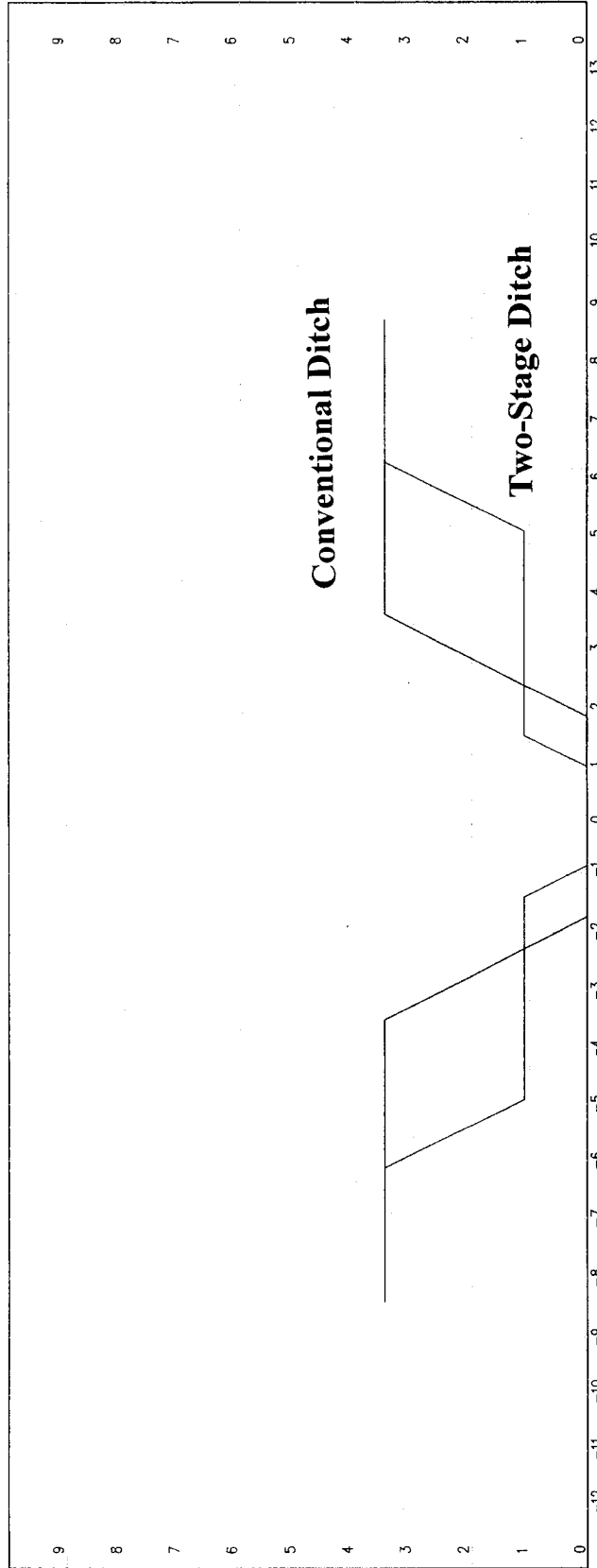
Harry Ward
 V163 Pg358
 026-001-045-01

Herbert Smith
 V306 Pg707
 026-001-042-01

J Canaday
 V358 Pg589
 024-001-058-00

J Canaday
 V358 Pg589
 024-001-057-00

CROSS SECTION - DITCH BEHIND MOST NORTHERN ROW OF HOUSES




LEGEND

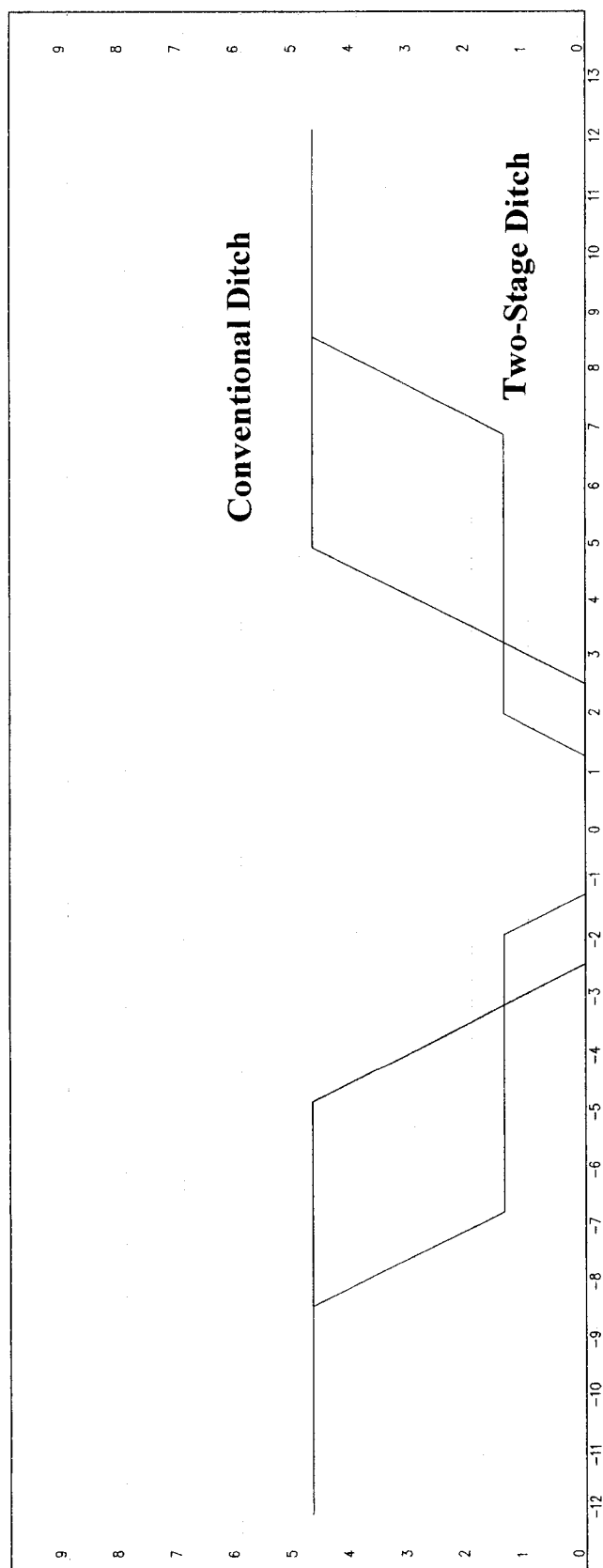
CONVENTIONAL DITCH DESIGN
TWO - STAGE DITCH DESIGN

NOTE:

_____ DRAINAGE CALCULATIONS WERE BASED ON A FORMULA DERIVED FROM THE GALLIA COUNTY ENGINEER'S OFFICE

Figure 5 of 6

	1/2	THE VALLEY ESTATES AT RIO GRANDE	CROSS SECTION - DITCH BEHIND MOST	P.R.H.	P.M.R.	DATE	CHECKED
		DITCH DESIGN	SOUTHERN ROW OF HOUSES			10/18/07	



LEGEND

CONVENTIONAL DITCH DESIGN TWO - STAGE DITCH DESIGN

NOTE:

DRAINAGE CALCULATIONS WERE BASED ON A FORMULA DERIVED FROM THE GALLIA COUNTY ENGINEER'S OFFICE

Figure 6 of 6